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CLERK U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

'07 MJ 2675

BY DEPUTY

UNITED STATES OF AMERICA, Plaintiff, v. **Frank CASTILLO,** Defendant.	Magistrate Case No.________ **COMPLAINT FOR VIOLATION OF** Title 8, U.S.C., Section 1324(a)(2)(B)(iii)- Bringing in Illegal Alien(s) Without Presentation

The undersigned complainant being duly sworn states:

On or about **November 14, 2007**, within the Southern District of California, defendant **Frank CASTILLO**, with the intent to violate the immigration laws of the United States, knowing and in reckless disregard of the fact that an alien, namely, **Elvia MARTINEZ-Hernandez**, had not received prior official authorization to come to, enter and reside in the United States, did bring to the United States said alien, and upon arrival did not bring and present said alien immediately to an appropriate immigration officer at a designated port of entry; in violation of Title 8, United States Code, Section 1324(a)(2)(B)(iii).

And the complainant states that this complaint is based on the attached statement of facts, which is incorporated herein by reference.

SIGNATURE OF COMPLAINANT
Mario Avila, U.S. Customs and Border Protection Enforcement Officer

Sworn to before me and subscribed in my presence, this **16th** day of **November 2007**.

UNITED STATES MAGISTRATE JUDGE

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PROBABLE CAUSE STATEMENT

The complainant states that **Elvia MARTINEZ-Hernandez** is a citizen of a country other than the United States; that said alien has admitted she is deportable; that her testimony is material; that it is impracticable to secure her attendance at trial by subpoena; and that she is a material witness in relation to this criminal charge and should be held or admitted to bail pursuant to Title 18, United States Code, Section 3144.

On November 14, 2007 at approximately 2223 hours **Frank CASTILLO (Defendant)** made application for admission into the United States at the San Ysidro, California Port of Entry as the driver of a blue Chevrolet Suburban. Defendant presented a California driver's license and Military identification card bearing his name and photograph to a Customs and Border Protection (CBP) Officer. The CBP Officer received a negative customs declaration from the Defendant. The CBP Officer conducted a cursory inspection of the vehicle Defendant was operating and observed abnormalities in the rear seat. Upon a closer inspection of the rear seat, the CBP Officer observed a non-factory compartment underneath the rear seat. The CBP Officer proceeded to refer and escort Defendant into secondary inspection.

During secondary inspection, a non-factory compartment under the rear seat was discovered. Subsequently, one female adult was removed from the compartment. The female adult was determined to be a citizen of Mexico with no entitlements to enter the United States. The female adult is now identified as **Elvia MARTINEZ-Hernandez (Material Witness)**. All individuals were escorted to the prosecutions unit area for further processing.

During a videotaped interview Defendant was advised of his Miranda rights. Defendant acknowledged his rights and elected to answer questions without an attorney present. During a subsequent interview Defendant admitted knowledge to attempting to smuggle one undocumented alien into the United States in a non-factory compartment of the blue Chevrolet Suburban. Defendant admitted that he had knowledge that Material Witness is a citizen of Mexico with no entitlements to enter the United States. Defendant admitted that Material Witness was placed in the vehicle by an unknown male in Tijuana, Mexico. Defendant admitted his intentions were to smuggle Material Witness into the United States.

During a videotaped interview Material Witness admitted she is a citizen of Mexico not possessing the proper documentation to enter into, pass through, or remain in the United States. Material Witness stated she intended to travel to Los Angeles, California, to look for her husband. Material Witness admitted an older man placed her in the compartment. Material Witness admitted she was in the compartment about one hour. Material Witness stated she knows it is illegal to enter the United States in this manner. Material Witness further stated she knows she needs legal documents to enter into the United States.